

Introduced by

1 A BILL for an Act to create and enact a new section to chapter 4-01, a new subsection to
2 section 4-10.6-06, a new section to chapter 25-03.3, a new section to chapter 36-05, a new
3 section to chapter 36-05.1, a new section to chapter 43-25, a new subsection to section
4 43-34-09, a new subsection to section 43-47-03, a new section to chapter 51-05.1, and a new
5 section to chapter 54-52.5 of the North Dakota Century Code, relating to administrative
6 rulemaking authority of the agriculture commissioner, corn utilization council, department of
7 human services, board of massage therapy, board of nursing home administrators, board of
8 counselor examiners, public service commission, and retirement and investment office; to
9 amend and reenact sections 4-41-02, 8-02-08, 21-10-02, 23-01-04, and 27-21-08, subsection 1
10 of section 28-32-02, section 37-15-03, subsection 1 of section 43-23.3-03, subsection 2 of
11 section 43-40-05, subsection 5 of section 54-23.3-04, section 54-27-19.1, and subsection 7 of
12 section 54-52-04 of the North Dakota Century Code, relating to administrative rulemaking
13 authority of the agriculture commissioner, highway patrol, retirement and investment office,
14 state department of health, department of corrections and rehabilitation, administrative
15 committee for veterans' affairs, real estate appraiser qualifications and ethics board, board of
16 occupational therapy practice, state treasurer, and public employees retirement system; to
17 repeal section 54-12-01.2 of the North Dakota Century Code, relating to administrative
18 rulemaking authority of the attorney general; and to provide an effective date.

19 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

20 **SECTION 1.** A new section to chapter 4-01 of the North Dakota Century Code is
21 created and enacted as follows:

22 **Rulemaking authority.** The commissioner may adopt rules pursuant to chapter 28-32
23 necessary to implement this chapter.

NOTE: This change was requested by the Agriculture Commissioner.

SECTION 2. A new subsection to section 4-10.6-06 of the 1999 Supplement to the North Dakota Century Code is created and enacted as follows:

Adopt rules as necessary to implement this chapter.

NOTE: This change was requested by the Corn Utilization Council.

SECTION 3. AMENDMENT. Section 4-41-02 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4-41-02. Industrial hemp - Licensure - Reporting requirements - Rules - Continuing appropriation.

1. Any person desiring to grow industrial hemp for commercial purposes shall apply to the agriculture commissioner for a license on a form prescribed by the commissioner. The application for a license must include the name and address of the applicant and the legal description of the land area to be used for the production of industrial hemp. Except for employees of the agricultural experiment station or the North Dakota state university extension service involved in research and extension related activities, the commissioner shall require each applicant for initial licensure to file a set of the applicant's fingerprints, taken by a law enforcement officer, and any other information necessary to complete a statewide and nationwide criminal history check with the bureau of criminal investigation for state processing and with the federal bureau of investigation for federal processing. All costs associated with the background check are the responsibility of the applicant. Criminal history records provided to the commissioner under this section are confidential. The commissioner may use the records only in determining an applicant's eligibility for licensure. Any person with a prior criminal conviction is not eligible for licensure. If the applicant has completed the application process to the satisfaction of the commissioner, the commissioner shall issue the license, which is valid for a period of one year. Any person licensed under this section is presumed to be growing industrial hemp for commercial purposes.
2. Each licensee must file with the commissioner documentation indicating that the seeds planted were of a type and variety certified to have no more than three-tenths of one percent tetrahydrocannabinol and a copy of any contract to

grow industrial hemp. Each licensee shall notify the commissioner of the sale or distribution of any industrial hemp grown by the licensee, and the names of the persons to whom the hemp was sold or distributed.

3. The commissioner ~~shall~~ may adopt rules ~~to allow the industrial hemp to be tested during growth for tetrahydrocannabinol levels and to allow for supervision of the industrial hemp during its growth and harvest pursuant to chapter 28-32 as necessary to implement this chapter.~~

4. To provide sufficient funds to pay costs associated with monitoring and testing industrial hemp in the state, the commissioner shall assess each applicant a fee of five dollars per acre. The minimum fee assessed must be one hundred fifty dollars per applicant. Collections from this fee must be deposited in the attorney general's operating fund and are hereby appropriated to the attorney general to be used to enforce this chapter.

NOTE: This change was requested by the Agriculture Commissioner.

SECTION 4. AMENDMENT. Section 8-02-08 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

8-02-08. Safety standards for passenger contract carriers. The highway patrol shall adopt rules pursuant to chapter 28-32 as necessary to establish minimum safety standards for passenger contract carriers transporting fewer than fifteen passengers. The safety standards must include provisions for driver qualifications; motor vehicle inspection, maintenance, and repair; hours of service; drug and alcohol testing; and insurance. In this section, "contract carrier" means a person engaged in the business of carrying passengers for hire and in that business does not operate on a fixed route. The term does not include a person who makes a single daily round trip to commute to and from work, a person transporting only schoolchildren and teachers, a person operating ambulance or funeral services, a person who on occasion and not as a regular business enterprise transports one or more passengers for pay, a person operating stretched sedan-type limousines, nor a person operating a taxicab service using vehicles with a seating capacity of fewer than seven passengers.

NOTE: This change was requested by the Highway Patrol.

SECTION 5. AMENDMENT. Section 21-10-02 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1 **21-10-02. Board - Powers and duties.** The board is charged with the investment of
2 the funds enumerated in section 21-10-06. It shall approve general types of securities for
3 investment by these funds and set policies and procedures regulating securities transactions on
4 behalf of the various funds. Representatives of the funds enumerated in section 21-10-06 may
5 make recommendations to the board in regard to investments. The board or its designated
6 agents must be custodian of securities purchased on behalf of funds under the management of
7 the board. The board may appoint an investment director or advisory service, or both, who
8 must be experienced in, and hold considerable knowledge of, the field of investments. The
9 investment director or advisory service shall serve at the pleasure of the board. The investment
10 director or advisory service may be an individual, corporation, limited liability company,
11 partnership, or any legal entity which meets the qualifications established herein. The board
12 may authorize the investment director to lend securities held by the funds. These securities
13 must be collateralized as directed by the board. The board may create investment fund pools in
14 which the funds identified in section 21-10-06 may invest. The board may adopt rules pursuant
15 to chapter 28-32 as necessary to implement this chapter.

NOTE: This change was requested by the Retirement and Investment Office.

16 **SECTION 6. AMENDMENT.** Section 23-01-04 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **23-01-04. Effect of rules and regulations.** ~~All rules and regulations promulgated by~~
19 ~~the health council under the powers granted by any provisions of this title are binding upon all~~
20 ~~county and municipal health officers, and upon all county, municipal, and private medical~~
21 ~~hospitals and upon related institutions, and have the force and effect of law.~~ The health council
22 may adopt rules pursuant to chapter 28-22 as necessary to implement any state statute
23 administered by the department.

NOTE: This change was requested by the State Department of Health.

24 **SECTION 7.** A new section to chapter 25-03.3 of the North Dakota Century Code is
25 created and enacted as follows:

26 **Rulemaking authority.** The department may adopt rules pursuant to chapter 28-32 as
27 necessary to implement this chapter.

NOTE: This change was requested by the Department of Human Services.

SECTION 8. AMENDMENT. Section 27-21-08 of the North Dakota Century Code is amended and reenacted as follows:

27-21-08. Planning - Development - Rulemaking. The division of juvenile services shall provide treatment and rehabilitation programs and services and aid in the development of new or improved means of prevention, control, supervision, and management of children committed to its custody. The director of the division of juvenile services, subject to the approval of the director of the department of corrections and rehabilitation, may adopt policies and procedures and make rules pursuant to chapter 28-32 as necessary to implement this chapter.

NOTE: This change was requested by the Department of Corrections and Rehabilitation.

SECTION 9. AMENDMENT. If _____ Bill No. _____ does not become effective, subsection 1 of section 28-32-02 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. The authority of an administrative agency to adopt administrative rules is authority delegated by the legislative assembly. As part of that delegation, the legislative assembly reserves to itself the authority to determine when and if rules of administrative agencies are effective. Every administrative agency that has explicit statutory authority outside this chapter for rulemaking may adopt, amend, or repeal reasonable rules in conformity with the provisions of this chapter and any statute ~~administered or enforced by the agency to which the statutory rulemaking authority~~ applies.

SECTION 10. AMENDMENT. Subsection 1 of section 28-32-02 of the North Dakota Century Code as created by _____ Bill No. _____, as approved by the fifty-seventh Legislative Assembly, is amended and reenacted as follows:

1. The authority of an administrative agency to adopt administrative rules is authority delegated by the legislative assembly. As part of that delegation, the legislative assembly reserves to itself the authority to determine when and if rules of administrative agencies are effective. Every administrative agency that has explicit statutory authority outside this chapter for rulemaking may adopt, amend, or repeal reasonable rules in conformity with the provisions of this chapter and any statute

~~administered or enforced by the agency to which the statutory rulemaking authority~~
applies.

SECTION 11. A new section to chapter 36-05 of the North Dakota Century Code is created and enacted as follows:

Rulemaking authority. The commissioner may adopt rules pursuant to chapter 28-32 as necessary to implement this chapter.

NOTE: This change was requested by the Agriculture Commissioner.

SECTION 12. A new section to chapter 36-05.1 of the North Dakota Century Code is created and enacted as follows:

Rulemaking authority. The commissioner may adopt rules pursuant to chapter 28-32 as necessary to implement this chapter.

NOTE: This change was requested by the Agriculture Commissioner.

SECTION 13. AMENDMENT. Section 37-15-03 of the North Dakota Century Code is amended and reenacted as follows:

37-15-03. Government of veterans' home - Rules. The general supervision and government of the veterans' home is vested in the administrative committee on veterans' affairs. The administrative committee on veterans' affairs may adopt rules pursuant to chapter 28-32 relating to the supervision and government of the veterans' home and the implementation of programs or services provided by the veterans' home.

NOTE: This change was requested by the Administrative Committee on Veterans' Affairs.

SECTION 14. AMENDMENT. Subsection 1 of section 43-23.3-03 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. The board, or its designated representative, shall:
 - a. Define apprentice appraiser, licensed appraiser, and certified appraiser, determine the type of educational experience, appraisal experience, and equivalent experience that meet the requirements of this chapter, and establish application procedures.
 - b. Establish examination specifications for each category of licensed and certified appraiser and administer examinations.

- c. Approve or disapprove applications for licensure and certification, issue pocket cards and permits to practice, and maintain a registry of the names and addresses of individuals licensed and certified.
- d. Discipline permittees.
- e. Hold meetings, hearings, and examinations in places and at times as it designates and maintain records of board activities.
- f. Adopt rules pursuant to chapter 28-32 as necessary to implement this chapter or carry out the requirements imposed by federal law.

NOTE: This change was requested by the Real Estate Appraiser Qualifications and Ethics Board.

SECTION 15. A new section to chapter 43-25 of the North Dakota Century Code is created and enacted as follows:

Rulemaking authority. The board may adopt rules pursuant to chapter 28-32 as necessary to implement this chapter.

NOTE: This change was requested by the Board of Massage Therapists.

SECTION 16. A new subsection to section 43-34-09 of the North Dakota Century Code is created and enacted as follows:

Adopt rules pursuant to chapter 28-32 as necessary to implement this chapter.

NOTE: This change was requested by the Board of Nursing Home Administrators.

SECTION 17. AMENDMENT. Subsection 2 of section 43-40-05 of the North Dakota Century Code is amended and reenacted as follows:

2. Adopt rules pursuant to chapter 28-32, ~~relating to professional conduct to carry out the policy of~~ as necessary to implement this chapter, including rules relating to professional licensure and to the establishment of ethical standards of practice for persons holding a license to practice occupational therapy in this state.

NOTE: This change was requested by the Board of Occupational Therapy Practice.

SECTION 18. A new subsection to section 43-47-03 of the 1999 Supplement to the North Dakota Century Code is created and enacted as follows:

Adopt rules pursuant to chapter 28-32 as necessary to implement this chapter.

NOTE: This change was requested by the Board of Counselor Examiners.

1 **SECTION 19.** A new section to chapter 51-05.1 of the North Dakota Century Code is
2 created and enacted as follows:

3 **Rulemaking authority regarding auctioneers and clerks licensing.** The commission
4 may adopt rules pursuant to chapter 28-32 as necessary for the licensing of auctioneers and
5 clerks.

NOTE: This change was requested by the Public Service Commission.

6 **SECTION 20. AMENDMENT.** Subsection 5 of section 54-23.3-04 of the 1999
7 Supplement to the North Dakota Century Code is amended and reenacted as follows:

8 5. To establish policies and procedures and to adopt rules pursuant to chapter 28-32
9 as necessary to carry out the responsibilities of the department.

NOTE: This change was requested by the Department of Corrections and
Rehabilitation.

10 **SECTION 21. AMENDMENT.** Section 54-27-19.1 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **54-27-19.1. Township highway aid fund - Distribution.** Notwithstanding any other
13 provision of law, one cent per gallon [3.79 liters] of the tax imposed by sections 57-43.1-02 and
14 57-43.2-02 may not be refunded and the proceeds must be distributed as provided in this
15 section. The tax commissioner shall transfer the proceeds of one cent per gallon [3.79 liters]
16 of the tax imposed by sections 57-43.1-02 and 57-43.2-02 to the state treasurer who shall
17 deposit the proceeds in a township highway aid fund in the state treasury. The state treasurer
18 shall no less than quarterly allocate and distribute all moneys in the township highway aid fund
19 to the counties of the state based on the length of township roads in each county compared to
20 the length of all township roads in the state. To receive any funds under this section, organized
21 townships shall provide fifty percent matching funds. The county treasurer shall allocate the
22 funds received to the organized townships in the county which provide fifty percent matching
23 funds based on the length of township roads in each such organized township compared to the
24 length of all township roads in the county. The funds received must be deposited in the
25 township road and bridge fund and used for highway and bridge purposes. If a county has no
26 organized townships, or has some organized and some unorganized townships, the county
27 shall retain a pro rata portion of the funds received based on the length of roads in unorganized
28 townships compared to the length of township roads in organized townships in the county.
29 Moneys retained by a county for the benefit of unorganized townships under this section must

1 be deposited in the county road and bridge fund. Moneys retained by the county treasurer due
2 to the failure of organized townships to provide required matching funds must be returned to the
3 state treasurer who shall deposit the funds in the highway tax distribution fund. The board of
4 county commissioners shall certify to the state treasurer any change in township road mileage
5 when a change occurs and shall, by July first of each even-numbered year, certify the total
6 number of township road mileage in each of the county's organized and unorganized
7 townships. The state treasurer shall prescribe the form and manner by which the certification is
8 made. The state treasurer may adopt rules pursuant to chapter 28-32 as necessary to
9 implement this section.

NOTE: This change was requested by the State Treasurer.

10 **SECTION 22. AMENDMENT.** Subsection 7 of section 54-52-04 of the 1999
11 Supplement to the North Dakota Century Code is amended and reenacted as follows:

12 7. The board shall administer chapters 39-03.1, 54-52.1, ~~and 54-52.2,~~ 54-52.3, and
13 54-52.6, and may administer other optional employee benefit programs, including a
14 flexible benefits plan, an optional employee short-term disability plan, a long-term
15 care plan, or other optional employee benefit programs as the board deems
16 appropriate. The board may adopt rules pursuant to chapter 28-32 as necessary
17 to carry out these powers and duties.

NOTE: This change was requested by the Public Employees Retirement System.

18 **SECTION 23.** A new section to chapter 54-52.5 of the North Dakota Century Code is
19 created and enacted as follows:

20 **Rulemaking authority.** The board may adopt rules pursuant to chapter 28-32 as
21 necessary to implement this chapter.

NOTE: This change was requested by the Retirement and Investment Office.

22 **SECTION 24. REPEAL.** Section 54-12-01.2 of the North Dakota Century Code is
23 repealed.

NOTE: The repeal of this section, relating to regulation of gaming schools, was
requested by the Attorney General's office.

24 **SECTION 25. EFFECTIVE DATE.** This Act is effective for administrative rules for
25 which the notice of rulemaking is filed with the legislative council office after July 31, 2001.
26 Administrative rules for which the notice of rulemaking was filed with the legislative council

- 1 office before August 1, 2001, are valid and remain effective until amended or repealed by the
- 2 adopting agency.

NOTE: The blanks in Sections 9 and 10 of this bill draft will be filled in when a bill number is assigned to the Administrative Agencies Practice Act revision bill draft (LC #10092).